

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

WP(C) .No. 35049 of 2005 (V)

PETITIONER:

C.R.RAZACK, S/O.LATE HASSAN,
AGED 43 YEARS, RESIDING AT 13/771,
CHERUMARAKKAR PARAMBU, THYKKAVU ROAD,
KOCHI-5.

BY ADV. SRI.GEORGE CHERIAN

RESPONDENTS:

1. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, KSEB, THOPPUMPADY.
2. CHIEF ELECTRICAL INSPECTOR TO
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.
3. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

- EXT.P1 TRUE COPY OF THE ORDER DTD. 5/3/2001 OF THE CONSUMER
DISPUTES REDRESSAL FORUM, EARNAKULAM IN OP.128/2001.
- EXT.P2 TRUE COPY OF THE ORDER DTD. 26/9/2005 ISSUED BY THE 2ND
RESPONDENT NO.B1-26664/2001/CE1.
- EXT.P3 TRUE COPY OF THE ARREAR NOTICE DTD. 28/11/2005 ALONG WITH
THE STATEMENT OF CALCULATION ISSUED BY THE 1ST
RESPONDENT.

P.R.RAMAN, J.

W.P. (C) .NO.35049 OF 2005

Dated this the 11th day of December, 2006

JUDGMENT

Petitioner is a consumer of electricity supplied by the Kerala State Electricity Board. The meter installed in his premises was found to be defective. There was a dispute between the parties, which was a subject matter of adjudication before the Consumer Disputes Redressal Forum, Ernakulam and Ext.P1 order was passed. As per Ext.P1 order, the complaint was allowed and the demand for payment of Rs.1,37,769/- dated 5/1/2000 was set aside. The complainant was given opportunity to file an application before the Electrical Inspector as provided under Section 26(6) of the Indian Electricity Act and on receipt of such application, the Electrical Inspector was directed to decide the dispute

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on the basis of Ext.B1 test report as to what is the amount payable by the complainant during the disputed period. This order is produced as Ext.P1 in this writ petition. Subsequently, proceedings were initiated on a complaint made by the petitioner before the Chief Electrical Inspector as directed by the Consumer Disputes Redressal Forum. Ext.P2 order was passed by the Chief Electrical Inspector, which reads as follows:

"On a perusal of the petition, counter-petition, other records made available and based on the personal hearing, I take the following decision. This dispute comes under the provisions of Section 26(6) of the Indian Electricity Act, 1910 since the disputed meter was tested faulty. Hence the energy consumption for a period of a maximum 6 months is to be assessed. As the petitioner and the respondent have no dispute regarding the working of the new meter, which was installed replacing the disputed meter, the energy contained in the supply can be assessed by taking the average

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consumption for 6 months after the installation of the new meter, and applying this average for the maximum period of 6 months during the disputed period. The average reading of 6 months is taken since meter readings are taken bi-monthly."

2. From the above, there cannot be any dispute that the maximum amount payable by the petitioner is only the average monthly consumption for a period of six months prior to 27/11/2000. It is so even as per Regulation 27(6) of the Electricity Supply Act. In order to arrive at the average amount, the Chief Electrical Inspector has directed the Electricity Board to take the average consumption recorded in the new meter installed on 27/11/2000. This was necessitated because the meter was defective for quite long and to arrive at the figure, the average of 6 months after 27/11/2000 was directed to be taken. Therefore, if the consumption of energy

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recorded in the meter after 27/11/2000 is taken for a period of six months thereafter the average has to be worked out and the average figure multiplied by 6 will be the total amount payable by the petitioner for the period in dispute. Since the amount now demanded is not in terms of the order passed by the Electrical Inspector, Ext.P3 stands quashed. It is open to the K.S.E. Board to make fresh demand in the above line whereupon the petitioner shall pay the same.

Writ Petition is allowed.

P . R . RAMAN ,
JUDGE .

kcv.